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SIPDIS

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SUBJECT: ISRAELI PLAN FOR CONTINUED SHEKEL CHECK CLEARING
FOR PALESTINIAN BANKS

REF: TEL AVIV 1368

Classified By: Economic Counselor William Weinstein for reasons 1.4 b a
nd d.

Summary

1. (S) The Bank of Israel (BOI) and Ministry of Finance (MOF) are developing a package of proposals to present to the Israeli banks that handle shekel check clearing for Palestinian Banks. The purpose is to convince the banks to continue to provide the check-clearing services, which they officially announced will end in July and August. The package is designed to alleviate the concerns that the two banks will be held criminally liable if a check they clear is linked to terrorism under Israel's strict anti-terror finance laws. The package includes new requirements for the Palestinian correspondent banks requesting the check-clearing services. It also frees the two Israeli banks from liability if they can prove that they adhered to certain administrative procedures, mainly checking the names on the checks against a GOI list of suspicious individuals and organizations. The Israelis are also requesting that the Treasury U/S for Terrorism and Financial Intelligence make a public statement indicating U.S. satisfaction with the Israeli requirements and noting the low probability that any institution complying with them would ever be prosecuted by U.S. law enforcement authorities. End Summary.

Check Clearing - Not an Attractive Business

2. (S) In a meeting with the Deputy Economic Counselor, the Head of Evaluations of the Bank Supervisors Office in the BOI, David Zaken, explained the proposal to convince Bank Hapoalim (BH) and Israel Discount Bank (IDB) to maintain their shekel check-clearing services for Palestinian banks. Both banks have officially notified the Palestinian banks with which they do business that they will end the relationships. BH will cease clearing checks on July 5, and IDB on August 13. The banks took this action because the check-clearing business is low margin and not very profitable, and, in their view, does not warrant the risk of being found liable of involvement in terror finance under Israel's strict anti-terror finance laws (see reftel). In addition, they fear the possibility of being sued by the families of the victims of terrorist attacks.

Requirements for Banks

3. (S) Zaken listed the following requirements that Palestinian banks must adhere to in order to be eligible to have their shekel checks cleared by Israeli banks:

-- They may not accept any checks endorsed over to a third party, i.e. the recipient of the funds represented by the check must be the person whose name appears on the check.

-- As is the case with Israeli checks, Palestinian bank checks must have the following printed clearly on the face of the check: name of account holder, address, identification number.

-- They must check the name of the check writer or recipient against a list of names to be provided by the GOI and not do business with anyone whose name appears on the list.

Zaken said that in discussions with BOI Governor Stanley Fischer, Palestinian Monetary Authority Chairman George Abed indicated a willingness to comply with these requirements.

4. (S) The GOI is also prepared to free BH and IDB from criminal liability in the following circumstances:

-- For checks less than NIS 5000, the banks must comply with their responsibility to compare the names on the checks to the GOI list of names mentioned above.

-- For checks over NIS 5000, the proposal still needs some clarification. However, the BOI, in cooperation with the Ministry of Finance, seems to be developing a type of blanket administrative order to the banks "ordering" them to clear checks for more than NIS 5000. If they report any suspicious names to the Israel Money Laundering and Terror Financing Prohibition Authority (IMPA), they will not be held criminally liable for any connection the funds might have to terror finance.

15. (S) The banks are also demanding not to be held liable for any check not directly written or received by one of their customers. For example, if a Palestinian buys something from an Israeli who is a customer of Mizrahi Bank and gives him a shekel check written on his Palestinian bank, the Mizrahi customer will deposit it in Mizrahi, which will send it to BH or IDB for clearing. BH and IDB want Mizrahi Bank to bear any liability that may arise as a result of the funds represented by that check, and to be freed from any liability themselves. They are only willing to assume responsibility for a check written by or to one of their own customers. Zaken said that the GOI is likely to agree, but has not yet notified the banks of this.

Statement from U.S. Treasury U/S Would Help

16. (S) In addition, the Ministry of Justice is being asked to issue a statement saying that not all Palestinian entities should be considered to be terror-supporting, and that there should be no hesitation to work with those which do not support terror. Finally, Zaken asked that the U.S. Treasury Department issue a public statement -- as U/S Levey said he would consider doing in an earlier meeting with Fischer. The purpose of the statement would be to raise the "comfort level" of BH and IDB by explaining that the USG is satisfied with the efforts of the GOI and the Israeli banks to combat terrorist financing, and the banks are therefore unlikely to be held liable by the USG for involvement in such activities.

The Issue Puts Everyone in a Difficult Position

17. (S) Zaken said that in preliminary discussions, the banks have not given the proposed package of measures a very warm reception. He explained that the GOI understands that the bank managers have a fiduciary responsibility to act in the interests of shareholders, and that it might be difficult for them to explain why it is wise for the bank to remain in a low-profit business that exposes it to major risk. Zaken noted that the banks may get some unspecified future concessions from the GOI on an unrelated issue if they agree to serve the national interest by continuing the check-clearing service. He expressed great discomfort at the BOI being involved in these negotiations at all, noting the conflict of interest inherent in trying to get such a major "favor" from those whom the BOI supervises and regulates.

Banks Will Accept - Reluctantly

18. (S) When asked directly whether or not the banks will accept the package, Zaken said he thought they would. The major problem is that none of the proposals deals with the issues that would arise if a family member of the victim of a terrorist attack decides to sue one of the banks. Zaken said that no government can indemnify a bank against a private lawsuit. When pushed, he said he thought that the banks would reluctantly be willing to live with that. The package will be finalized the week of May 22, at which point it will be translated into English and sent to the Embassy. Zaken will also contact Treasury then to discuss a possible public statement. He noted that he understood how important it is to move quickly to resolve the issue well before the BH deadline of July 5. He also said that the proposals he described are not yet finalized, and are subject to change.

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JONES